

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

MARGARET O'LEARY,
Plaintiff

v.

PATRICK DIGGINS and TRUSTEES
OF THE COLLEGE OF THE
HOLY CROSS,
Defendants.

C.A. No. 4:22-40146-AK

LOCAL RULE 16.1 JOINT STATEMENT OF THE PARTIES

Pursuant to the Federal Rules of Civil Procedure 16(b) and Local Rule 16. 1, the Plaintiff Margaret O'Leary and the Defendants Patrick Diggins and Trustees of the College of the Holy Cross (collectively "Parties") in the above-captioned action have conferred and hereby submit the following proposed Joint Statement and Discovery Plan:

I. PROCEDURAL BACKGROUND

On December 9, 2022, Plaintiff Margaret O'Leary brought the present action, bringing claims of negligence and negligent infliction of emotional distress against Patrick Diggins, and negligence through respondeat superior, negligent infliction of emotional distress, negligent retention and supervision, gross negligence, and recklessness against the Trustees of the College of the Holy Cross. The Plaintiff filed an Amended Complaint on February 21, 2023 with the same counts against each defendant. Defendants filed an Answer to Plaintiff's Amended Complaint on March 3, 2023. The Court schedule a Scheduling Conference for May 10, 2023.

II. TRIAL BY U.S. MAGISTRATE JUDGE

Pursuant to Local Rule 16.1(B)(3), the Parties have not consented to trial by Magistrate Judge.

III. MEDIATION

The parties have agreed to mediate this matter with a third-party mediation on August 30, 2023.

IV. PROPOSED SCHEDULE AS TO DISCOVERY AND MOTIONS

The Parties are agreeable to the following schedule and submit same to the Court to be utilized in devising the final Scheduling Order.

1. **Initial Disclosures.** Initial disclosures required by Fed. R. Civ. P. 26(a)(1) shall be completed by May 31, 2023.
2. **Amendments to Pleadings.** Except for good cause shown, Parties shall file all any and all motions seeking leave to add new parties or to amend the pleadings to assert new claims or defenses by August 1, 2023.
3. **Fact Discovery – Interim Deadlines:**
 - a. Written discovery shall be served by: October 2, 2023
 - b. All depositions, other than expert depositions, must be completed by: May 10, 2024
4. **Fact Discovery – Final Deadline.** All fact discovery shall be completed by May 10, 2024. Discovery will not be phased.
5. **Discovery Limitations.** The Parties do not propose any changes to the limitation on discovery set forth in the Federal Rules of Civil Procedures and the Local Rules.
6. **Expert Disclosures (Plaintiff).** Plaintiff shall disclose to Defendants in accordance with Fed. R. Civ. P. 26(a)(2) all experts relied on by Plaintiff no later than May 24, 2024. Depositions of such experts will be completed by July 1, 2024.

7. **Expert Disclosures (Defendants).** Defendants shall disclose to Plaintiff in accordance with Fed. R. Civ. P. 26(a)(2) all experts relied on by Defendants no later than July 1, 2024. Depositions of such experts will be completed by August 1, 2024.
8. **Expert Discovery.** All expert discovery shall be completed by August 1, 2024.
9. **Motions.** All dispositive motions, including motions filed pursuant to Fed. R. Civ. P. 12 and 56 shall be filed no later than September 2, 2024.
10. **Responses to Rule 56 motions.** Responses to Rule 56 motions shall be filed no later than 21 days after the motion is served, but in any event no later than September 23, 2024.
11. **Case Management Conference.** The Parties respectfully request that the Court schedule a case management conference or hearing on any pending motions on or about October 14, 2024, or 30 days from the Court's ruling on dispositive motions if any are filed, whichever is later.

V. MODIFICATION OF SCHEDULE

All dates and other terms set forth herein may be modified subject to written agreement of the Parties and approval by the Court, or upon motion to the Court for good cause shown.

VI. CERTIFICATION BY PARTIES

The Parties certify that they have conferred pursuant to Local Rule 16.1(D) and Federal Rules of Civil Procedure Rule 26(f). The Parties further certify that each party's counsel have conferred with (a) a view to establish a budget for the costs of conducting the full course – and various alternative courses of the litigation; (b) to consider the resolution of the litigation through the use of alternative dispute resolution programs such as those outlined in Local Rule 16.4.

Respectfully submitted,

THE PLAINTIFF,
MARGARET O'LEARY,
By her attorneys,

/s/ Mary H. Patryn
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THE DEFENDANTS,
PATRICK DIGGINS AND
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CERTIFICATE OF SERVICE

I, hereby certify that on May 8, 2023, a copy of the foregoing was served by the Court's CM/ECF system upon counsel of record.

/s/ Eric V. Skelly
Eric V. Skelly